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RUEHSA/AMEMBASSY PRETORIA PRIORITY 1568
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C O N F I D E N T I A L SECTION 01 OF 02 PORT AU PRINCE 000106

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E.O. 12958: DECL: 01/16/2018
TAGS: [PGOV](#) [PREL](#) [KDEM](#) [HA](#)
SUBJECT: SENATORS EXTEND TERMS INTO NEW SESSION OF
PARLIAMENT

REF: 07 PORT AU PRINCE 1853

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Classified By: Ambassador Janet A. Sanderson for reasons 1.4 (b) and (d).

11. (C) Summary: The new session of the National Assembly began January 14. Since Senate elections have yet to be held, a decision had to be made whether the ten lame-duck two-year senators would depart on January 14 or remain in their office a full two years, until May 2008. The Senate, President Preval and political parties found a dubious middle way, agreeing January 12 to allow the ten senators up for re-election to remain in office until the passage of the new electoral law governing the next senate elections. Issues of Senate functionality will arise if senatorial elections are not completed by May 8, the two-year anniversary of the ten senators' taking office. End summary.

Legal Parameters

12. (U) Per the Haitian Constitution of 1987, senators serve 6-year terms, renewed in thirds every two years. However, the entire current body of the Senate was elected in 2006, as the Parliament had been defunct prior to that election. Per the Electoral Decree of February 3, 2005 (signed by the Interim Government), the senators elected in 2006 were elected to six, four and two-year terms -- according to the number of votes received in their departments -- to kick-start the rotational election cycle. In future, all senators will hold the constitutionally-mandated 6-year term. Senate terms typically begin on the second Monday of January at the opening session of the National Assembly (the Senate and the Chamber of Deputies together). In order for the Senate to install ten new (or reelected) senators January 14, elections for those seats needed to take place by November 12007. To date, those elections have yet to be scheduled.

Agreement Allows Peaceful Senate Opening

13. (C) Senators and political party leaders met with President Preval January 11 and 12 to decide on a game plan

for the National Assembly opening. The meetings resulted in a joint declaration by political party leaders and senators defining the terms of the two-year senators as ending when Parliament passes the electoral law governing the next senate elections. The senate passed a resolution to the same effect the morning of January 14, just prior to the National Assembly's opening ceremony. The resolution states that the two-year senators ''will continue to exercise their functions until the final vote of the electoral law,'' with the caveat that this is ''with the understanding that the vote will take place before May 8, 2008,'' the two-year anniversary of their installation as senators.

¶4. (C) In addition, the resolution ''encourages and presses'' the Provisional Electoral Council (CEP) to finish the electoral law so that the Executive Branch can submit it to parliament. It also includes an article vowing the Senate will give priority to the vote on that law. Senator Rudolph Boulos (Fusion, Northeast) told Ambassador January 14 that he now plans to take an active role in moving the electoral law forward. If necessary, the Senate will take the CEP draft electoral law as is and make the necessary changes themselves, according to Boulos. (Note: This would break with the legislature's studied passivity: to date it has only voted on bills received from the Executive. End note.)

Outcome Unpredictable Until the 11th Hour

¶5. (C) Before January 14, President Preval supported the interpretation that the two-year senators' terms ended the day the new session of the National Assembly opened. As late as January 10, momentum in the Senate was building in support of that position. Senate President Joseph Lambert (Lespwa, Southeast) told Poloff January 8 that the Senate as a whole had decided the two-year senators would not/not remain in

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office after that date. Minister of Parliamentary Relations Joseph Jasmin told Poloffs January 10 that Preval and the rest of the executive branch believed the senators' mandates had come to term. Jasmin inserted the caveat, however, that Preval, senators and political party leaders would discuss the issue, and that Preval was open to any consensus solution.

¶6. (C) The uncertain situation had engendered arguments that extending the senators' terms would set a bad precedent, leaving the door open for other elected officials -- including the four- and six-year Senators and President Preval himself -- to remain in office beyond the end of their terms. (Note: Preval has repeatedly said he will not try to stay a full five years, but will step down on February 7, 2011 as required by Article 134-1 of the Constitution. End note.) Popular political parties Fusion and OPL (Struggling People's Party) publicly and privately opposed extension of senators' terms, arguing that such a step would further derail Haiti's elections cycle. Additionally, several two-year senators had already announced their intention to step down on January 14, but have since had to retract those statements.

¶7. (C) On the other side of the argument, prominent supporters of continuing the terms of the two-year senators until May 2008 were pro-Aristide party Fanmi Lavalas (FL) as well as Senator Youri Latortue's Artibonite in Action (LAAA). Senator Rudy Herivaux (FL, West Department) told Poloff January 12 that FL was concerned that the departure of the ten senators would render a quorum virtually impossible, given the Senate's frequent inability to garner the 16 senators necessary for a quorum even when there were 29 of them, as now. Additionally, Herivaux believed the presence or absence of those 10 senators would affect the outcome of elections for Senate leadership (septel).

¶8. (C) Comment: The legal issue of the length of the two-year senators' mandates was brought on by two tardy

elections (the 2006 legislative elections and the still-to-be-held Senate elections this year), compounded by ambiguous definitions of legislators' terms in the 1987 constitution. That document links the start of deputies' terms to the beginning of the legislative session (second Monday of January) but lays down no such link for the Senate, which is in continuous session. Answering this question by a simple resolution of one house of the legislature is an expedient stopgap that brings no legal or constitutional clarity to the issue. The problem is virtually certain to arise again in 2010 and 2012 when the four-year and six-year senators' terms expire. Moreover, the Senate will be left with 11 empty seats (the ten two-year senators plus that of one who died in office) if the electoral law is not passed by May 8, the two-year mark for the terms of the ten senators in question. All eyes now are on both chambers' expedited handling of the new electoral law needed to get senate elections moving, a draft of which has yet to be submitted to the legislature.

SANDERSON